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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/058,554	01/28/2002	George Zivan	7092.3002.001 (Zivan)	3794
23399	7590	06/19/2006	EXAMINER	
REISING, ETHINGTON, BARNES, KISSELLE, P.C.			APPLE, KIRSTEN SACHWITZ	
P O BOX 4390			ART UNIT	PAPER NUMBER
TROY, MI 48099-4390			3628	

DATE MAILED: 06/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/058,554	Applicant(s) ZIVAN, GEORGE	
	Examiner Kirsten S. Apple	Art Unit 3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 January 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>03/05/2002</u> . | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

This action is in response to the application filed on 01/28/2002.

Priority

No claim for priority has been made in this application.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1, 2, 5, 6, 9 and 10

Claims ~~1-12~~ are rejected under 35 U.S.C. 102(b) as being anticipated by Hymer,

“Starting Out, the Complete Home Buyer’s Guide”.

Re claim 1 & 9: Hymer discloses:

A method of defer payment of compensation comprising;

A seller selling to a buyer with the assistance of a broker, applicant incurs duty to pay compensation (see Hymer, page 48, last paragraph “traditionally, seller pay the brokerage commission”, & Page 49 3rd paragraph “one option is for the buyer to pay the broker”)

Broker receiving compensation from a broker’s separate entity at a closing (See Hymer, page 50 “who can’t find a lender to finance the fee” the broker’s separate entity would be the lender or a entity the lender loans to capital to.)

Broker’s separate entity having the right to receive compensation from applicant or seller after closing. (See Hymer, page 50 “who can’t find a lender to finance the fee” It is inherent that money would have to be paid back after the closing. One would know financing

Art Unit: 3628

implies there are “warrants and reps” that ensure the entity taking the loan would have to pay back the loan after the money was loan – in this case the money was loaned for commission (at the time of closing) and therefore the money would have to be paid back after the closing to the financing entity.)

Re claim 2 & 10: Hymer discloses:

A method of defer payment of compensation comprising;

A seller selling to a buyer with the assistance of a broker, applicant incurs duty to pay compensation (see Hymer, page 48, last paragraph “traditionally, seller pay the brokerage commission”, & Page 49 3rd paragraph “one option is for the buyer to pay the broker”)

Broker receiving compensation from a financing entity at a closing (See Hymer, page 50 “who can’t find a lender to finance the fee” the financing entity would be the lender or a entity the lender loans to capital to.)

Financing entity having the right to receive compensation from applicant or seller after closing. (See Hymer, page 50 “who can’t find a lender to finance the fee” It is inherent that money would have to be paid back after the closing. One would know financing implies there are “warrants and reps” that ensure the entity taking the loan would have to pay back the loan after the money was loan – in this case the money was loaned for commission (at the time of closing) and therefore the money would have to be paid back after the closing to the financing entity.)

Re claim 5: Hymer discloses:

In a transaction for the sale of the property involving a seller, a buyer and a broker, where the broker charges compensation for assisting in the transaction (see Hymer, title) a

method for loaning the broker's compensation including the steps of (See Hymer, page 50 "who can't find a lender to finance the fee");

A seller selling to a buyer with the assistance of a broker, applicant incurs duty to pay compensation (see Hymer, page 48, last paragraph "traditionally, seller pay the brokerage commission", & Page 49 3rd paragraph "one option is for the buyer to pay the broker")

Broker receiving compensation from a broker's separate entity at a closing (See Hymer, page 50 "who can't find a lender to finance the fee" the broker's separate entity would be the lender or a entity the lender loans to capital to.)

Broker's separate entity having the right to receive compensation from applicant after closing. (See Hymer, page 50 "who can't find a lender to finance the fee" It is inherent that money would have to be paid back after the closing. One would know financing implies there are "warrants and reps" that ensure the entity taking the loan would have to pay back the loan after the money was loan – in this case the money was loaned for commission (at the time of closing) and therefore the money would have to be paid back after the closing to the financing entity.)

Re claim 6: Hymer discloses:

In a transaction for the sale of the property involving a seller, a buyer and a broker, where the broker charges compensation for assisting in the transaction (see Hymer, title) a method for loaning the broker's compensation including the steps of (See Hymer, page 50 "who can't find a lender to finance the fee");

Art Unit: 3628

A seller selling to a buyer with the assistance of a broker, applicant incurs duty to pay compensation (see Hymer, page 48, last paragraph "traditionally, seller pay the brokerage commission", & Page 49 3rd paragraph "one option is for the buyer to pay the broker")

Broker receiving compensation from a financing entity at a closing (See Hymer, page 50 "who can't find a lender to finance the fee" the financing entity would be the lender or a entity the lender loans to capital to.)

Financing entity having the right to receive compensation from applicant after closing. (See Hymer, page 50 "who can't find a lender to finance the fee" It is inherent that money would have to be paid back after the closing. One would know financing implies there are "warrants and reps" that ensure the entity taking the loan would have to pay back the loan after the money was loan – in this case the money was loaned for commission (at the time of closing) and therefore the money would have to be paid back after the closing to the financing entity.)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3, 4, 7, 8, 11 and 12

Claims ~~1-9~~ are rejected under 35 U.S.C. 103(a) as being unpatentable over Hymer,

"Starting Out, the Complete Home Buyer's Guide" in view of Official Notice.

Re claim 3 & 11: Hymer discloses:

A method of defer payment of compensation comprising:

2
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A seller selling to a buyer with the assistance of a broker, applicant incurs duty to pay compensation (see Hymer, page 48, last paragraph “traditionally, seller pay the brokerage commission”, & Page 49 3rd paragraph “one option is for the buyer to pay the broker”)

Broker receiving compensation from a financing entity at a closing (See Hymer, page 50 “who can’t find a lender to finance the fee” the financing entity would be the lender or a entity the lender loans to capital to.)

An administrator having the right to receive compensation from applicant or seller after closing. (See Hymer, page 50 “who can’t find a lender to finance the fee” It is inherent that money would have to be paid back after the closing. One would know financing implies there are “warrants and reps” that ensure the entity taking the loan would have to pay back the loan after the money was loan – in this case the money was loaned for commission (at the time of closing) and therefore the money would have to be paid back after the closing to the financing entity. The examiner takes Official Notice that this could be paid back directly to the financial institution that provided the loan or an outsourced entity that is administering the loan as stated in the claim “an administrator”).

Re claim 4 & 12: Hymer discloses:

A method of defer payment of compensation comprising:

A seller selling to a buyer with the assistance of a broker, applicant incurs duty to pay compensation (see Hymer, page 48, last paragraph “traditionally, seller pay the brokerage commission”, & Page 49 3rd paragraph “one option is for the buyer to pay the broker”)

Broker receiving compensation from a financing entity at a closing (See Hymer, page 50 “who can’t find a lender to finance the fee” the financing entity would be the lender or a entity the lender loans to capital to.)

Broker having the right to receive compensation from applicant or seller after closing. (See Hymer, page 50 “who can’t find a lender to finance the fee” It is inherent that money would have to be paid back after the closing. One would know financing implies there are “warrants and reps” that ensure the entity taking the loan would have to pay back the loan after the money was loan – in this case the money was loaned for commission (at the time of closing) and therefore the money would have to be paid back after the closing to the financing entity. The examiner takes Official Notice that the broker could be the financing entity. It is very common for sellers to the buyer as well as builders and brokers.)

Re claim 7: Hymer discloses:

In a transaction for the sale of the property involving a seller, a buyer and a broker, where the broker charges compensation for assisting in the transaction (see Hymer, title) a method for loaning the broker’s compensation including the steps of (See Hymer, page 50 “who can’t find a lender to finance the fee”);

A seller selling to a buyer with the assistance of a broker, applicant incurs duty to pay compensation (see Hymer, page 48, last paragraph “traditionally, seller pay the brokerage commission”, & Page 49 3rd paragraph “one option is for the buyer to pay the broker”)

Broker receiving compensation from a financing entity at a closing (See Hymer, page 50 “who can’t find a lender to finance the fee” the financing entity would be the lender or a entity the lender loans to capital to.) An administrator having the right to receive compensation from

Art Unit: 3628

applicant after closing. (See Hymer, page 50 “who can’t find a lender to finance the fee” It is inherent that money would have to be paid back after the closing. One would know financing implies there are “warrants and reps” that ensure the entity taking the loan would have to pay back the loan after the money was loan – in this case the money was loaned for commission (at the time of closing) and therefore the money would have to be paid back after the closing to the financing entity. The examiner takes Official Notice that this could be paid back directly to the financial institution that provided the loan or an outsourced entity that is administering the loan as stated in the claim “an administrator”.)

Re claim 8: Hymer discloses:

In a transaction for the sale of the property involving a seller, a buyer and a broker, where the broker charges compensation for assisting in the transaction (see Hymer, title) a method for loaning the broker’s compensation including the steps of (See Hymer, page 50 “who can’t find a lender to finance the fee”);

A seller selling to a buyer with the assistance of a broker, applicant incurs duty to pay compensation (see Hymer, page 48, last paragraph “traditionally, seller pay the brokerage commission”, & Page 49 3rd paragraph “one option is for the buyer to pay the broker”)

Broker receiving compensation from a financing entity at a closing (See Hymer, page 50 “who can’t find a lender to finance the fee” the financing entity would be the lender or a entity the lender loans to capital to.)

Broker having the right to receive compensation from applicant after closing. (See Hymer, page 50 “who can’t find a lender to finance the fee” It is inherent that money would have to be paid back after the closing. One would know financing implies there are “warrants

Art Unit: 3628

and reps" that ensure the entity taking the loan would have to pay back the loan after the money was loan -- in this case the money was loaned for commission (at the time of closing) and therefore the money would have to be paid back after the closing to the financing entity. The examiner takes Official Notice that the broker could be the financing entity. It is very common for sellers to the buyer as well as builders and brokers.)

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Friedman, "Keys to Mortgage Financing & Refinancing," teaches about financing closing costs.

Contact Information

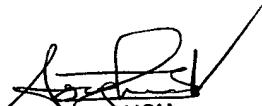
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kirsten S. Apple whose telephone number is 571.272.5588. The examiner can normally be reached on Monday - Friday 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sam Sough can be reached on 571.272.6799. The fax phone number for the organization where this application or proceeding is assigned is 571-272-6126.

Art Unit: 3628

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ksa


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